



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

NORTHERN REGIONAL OFFICE  
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Secretary of Natural Resources

David K. Paylor  
Director  
(804) 698-4000

Thomas A. Faha  
Regional Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
Continental Automotive Systems, Inc.  
FOR  
Continental Automotive Systems – Culpeper Plant  
VPDES Permit No. VAG25  
Registration No. VAG250095**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Continental Automotive Systems, Inc., regarding the Continental Automotive Systems Culpeper Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “305(b) report” means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

3. "Continental Auto" means Continental Automotive Systems, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Continental Auto is a "person" within the meaning of Va. Code § 62.1-44.3.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10.
7. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
  - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
  - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
8. "DMR" means Discharge Monitoring Report.
9. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
10. "Facility" or "Plant" means the automotive parts manufacturing facility located at 13456 Lovers Lane, Culpeper County, Virginia, from which discharges of noncontact cooling water occur.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
13. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
14. "Permit" means VPDES Permit No. VAG25, the VPDES General Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less, which was issued under the State Water Control Law and the Regulation on March 2, 2018 and which expires on March 1, 2023. Continental Auto applied for coverage under General Permit No. VAG25 and was issued Registration No. VAG250095 on March 2, 2018.

15. "Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to pollution. 9 VAC 25-210-10.
16. "Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters: (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses; provided that (a) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners is sufficient to cause pollution; (b) the discharge of untreated sewage by any owner into state waters; and (c) contributing to the contravention of standards of water quality duly established by the board, are "pollution." Va. Code § 62.1-44.3; 9 VAC 25-210-10.
17. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
19. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "VPDES" means Virginia Pollutant Discharge Elimination System.
23. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Continental Auto owns and operates the Facility. The Permit allows Continental Auto to discharge noncontact cooling water from the Facility, to an unnamed tributary to Meadowbrook Run, in strict compliance with the terms and conditions of the Permit.
2. According to DEQ's 305(b) report, approximately 2.75 miles downstream of the Facility's permitted outfall, there is a listed recreational use (*E. coli*) impairment on the Sumerduck Run. This impairment is addressed via the downstream completed Rapidan

River Basin bacteria Total Maximum Daily Load (TMDL) for the Lower Rapidan River watershed.

3. Part I.A.1 of the Permit requires Continental Auto to monitor and limit certain effluent characteristics in discharges to freshwater receiving waterbodies.
4. DEQ file review of Permit-required DMR submissions indicate that Continental Auto has reported that it exceeded discharge limitations contained in Part I.A.1 of the Permit as follows:
  - a. total recoverable copper: 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarters 2018 for Outfalls 001;
  - b. total residual chlorine (TRC): 4<sup>th</sup> quarter 2018 for Outfall 001.
5. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
6. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
7. NRO issued Warning Letters and a Notice of Violation for the violations described above in paragraphs C(1) through C(6) as follows:
  - a. WL No. W2018-08-N-1008, issued August 15, 2018;
  - b. WL No. W2018-10-N-1028, issued October 19, 2018; and
  - c. Referral NOV No. W2019-01-N-0002, issued January 17, 2019.
8. On January 22, 2019, Continental Auto submitted a written NOV response to DEQ. On February 8, 2019, a representative for Continental Auto met with DEQ staff at NRO to further discuss the violations.
9. Continental Auto stated that it completed a pipe replacement project in January 2018 to address copper concentrations, and after it did not resolve the issue, it was determined additional work was necessary. Following additional evaluation, Continental Auto advised DEQ that it is planning to send the Facility’s noncontact cooling water discharge to a local wastewater treatment plant (Town of Culpeper) after it is partially treated onsite with the Facility’s existing pre-treatment equipment. The Town of Culpeper has an approved pretreatment program for accepting discharges to its wastewater treatment plant.
10. On February 14, 2019, DEQ staff performed an inspection of the Facility to assess the Facility’s compliance with the Permit. As documented in the March 1, 2019 inspection report, the exceedances of permit effluent limits for copper and TRC still need to be addressed; however, no additional noncompliance or items requiring corrective action were observed.
11. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.

12. In addition to coverage under VPDES General Permit VAG25, Registration No. VAG250095, Continental Auto has also been issued Registration No. VAR051093 for coverage under VPDES General Permit VAR05, for Stormwater Discharges Associated with Industrial Activity. Concerning discharges to state surface waters, the Department has issued no permits or certificates to Continental Auto for the Facility other than these two permit registrations.
13. The unnamed tributary to Meadowbrook Run is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.
14. Based on the results of the file review and correspondence between DEQ and Continental Auto, the Board concludes that Continental Auto has violated Part I.A.1 of the Permit, by discharging noncontact cooling water from the Facility while concurrently failing to comply with the conditions of the Permit; as described above in paragraphs C(1) through C(13).
15. In order for Continental Auto to return to compliance, DEQ staff and representatives of Continental Auto have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.15, the Board orders Continental Auto, and Continental Auto agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$6,603.10** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Continental Auto shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Continental Auto shall be liable for attorneys' fees of 30% of the amount outstanding.

### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Continental Auto for good cause shown by Continental Auto, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. W2019-01-N-0002 dated January 17, 2019, WL No. W2018-10-N-1028 dated October 19, 2018, and WL No. 2018-08-N-1008 dated August 15, 2018. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Continental Auto admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. Continental Auto consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Continental Auto declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Continental Auto to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Continental Auto shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Continental Auto shall

demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Continental Auto shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Continental Auto. Nevertheless, Continental Auto agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Continental Auto has completed all of the requirements of the Order;
  - b. Continental Auto petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Continental Auto.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Continental Auto from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Continental Auto and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Continental Auto certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Continental Auto to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Continental Auto.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Continental Auto voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 4<sup>th</sup> day of October, 2019.



Thomas A. Faha, Regional Director  
Department of Environmental Quality

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Continental Automotive Systems, Inc. voluntarily agrees to the issuance of this Order.

Date: 7-29-19 By: Geoff Walker, Plant Manager  
(Person) (Title)  
Continental Automotive Systems, Inc.

Commonwealth of Virginia

City/County of Culpeper

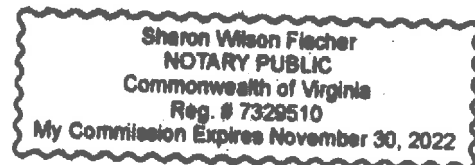
The foregoing document was signed and acknowledged before me this 29<sup>th</sup> day of July, 2019, by Geoff Walker who is Plant Manager of Continental Automotive Systems, Inc., on behalf of the corporation.

Sharon Wilson Fletcher  
Notary Public

7329510  
Registration No.

My commission expires: November 30, 2022

Notary seal:



## **APPENDIX A SCHEDULE OF COMPLIANCE**

Continental Automotive Systems, Inc. shall:

1. Within 60 days of the effective date of this Order, submit documentation to DEQ that Continental Auto has connected the Facility's noncontact cooling water discharge to its existing pre-treatment equipment for subsequent discharge to the Town of Culpeper's wastewater treatment plant. Additionally, Continental Auto shall submit to DEQ documentation that the Town of Culpeper has accepted to receive Continental Auto's noncontact cooling water discharge at the Town's wastewater treatment plant.

The submittal to DEQ should also include a written statement from Continental Auto that details how the Facility plans to maintain compliance with its VPDES Permit moving forward, or a plan for Continental Auto to terminate the Permit if no future discharge of noncontact cooling water to state surface waters is planned.

2. Unless otherwise specified in this Order, Continental Auto shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality  
Northern Regional Office  
Attention: Enforcement  
13901 Crown Court  
Woodbridge, VA 22193